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this Memorandum Decision shall not be
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establishing the defense of res judicata,
collateral estoppel, or the law of the case.

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**IN THE
COURT OF APPEALS OF INDIANA**

ERIC POINTER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0703-CR-201

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jose Salinas, Judge
Cause No. 49G17-0611-FD-212289

September 19, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Eric Pointer (“Pointer”) appeals the sentence imposed following his plea of guilty to Battery, as a Class C felony,¹ and his admission that he is a habitual offender.² We affirm.

Issue

Pointer presents a single issue for review: whether his sentence is inappropriate.

Facts and Procedural History

On November 2, 2006, Pointer struck Teresa Stokes, the mother of two of his five children. Pointer also held a knife to Stokes’ throat and pushed her against a wall. On January 10, 2007, Pointer pleaded guilty to battery with a deadly weapon, a Class C felony. He also admitted he is a habitual offender.

On January 31, 2007, the trial court conducted a sentencing hearing and sentenced Pointer to six years imprisonment, enhanced by six years due to his habitual offender status. Pointer now appeals.

Discussion and Decision

A person who commits a Class C felony shall be imprisoned for a fixed term of between two and eight years, with the advisory sentence being four years. See Ind. Code § 35-50-2-6. Indiana Code Section 35-50-2-8(h) provides for a sentence enhancement for a habitual offender of “not less than the advisory sentence for the underlying offense nor more than three times the advisory sentence for the underlying offense,” here a range of from four

¹ Ind. Code § 35-42-2-1.

to twelve years. Pointer requests that we reduce his twelve-year sentence in accordance with Indiana Appellate Rule 7(B), which provides that we “may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” In particular, Pointer emphasizes that he is not the worst among offenders and needs help with his drug and alcohol addictions.

Pointer’s character is such that he has a lengthy history of juvenile and criminal offenses, beginning at age fifteen. Apart from the two prior felony convictions that support the habitual offender determination, Pointer has twelve prior misdemeanor convictions. His convictions for crimes of violence include four battery convictions, one sexual battery conviction and one criminal confinement conviction. His 1997 conviction for battery involves the same victim as here. Also, he has been charged with battery on several occasions in which the charges were not brought to trial. See Cotto v. State, 829 N.E.2d 520, 526 (Ind. 2005) (concluding that a record of arrest may be relevant to the defendant’s character). On six occasions, Pointer violated probation. The nature of the offense is that Pointer struck Stokes repeatedly, pushed her against a wall, and held a knife to her throat.

Pointer faced an aggregate sentence of up to twenty years. In light of the nature of the offense and Pointer’s failure to benefit from prior rehabilitative efforts, Pointer has not persuaded us that his twelve-year sentence is inappropriate.

² Ind. Code § 35-50-2-8.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.